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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3908

13 **JOHN HANS LOEH**
14 **P.O. Box 557**
15 **Hurst, IL 62949**
16 **Pharmacy Technician Registration No. TCH 92661**

A C C U S A T I O N

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about October 8, 2009, the Board of Pharmacy issued Original Pharmacy
22 Technician Registration Number TCH 92661 to John Hans Loeh (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on April 30, 2011, unless renewed.

JURISDICTION

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code unless otherwise indicated.

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1 4. Section 4300 of the Code states:

2 "(a) Every license issued may be suspended or revoked.

3 ...

4 5. Section 4301 of the Code states:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8 ...

9 "(j) The violation of any of the statutes of this state, or any other state, or of the United
10 States regulating controlled substances and dangerous drugs.

11 ...

12 "(l) The conviction of a crime substantially related to the qualifications, functions, and
13 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
15 substances or of a violation of the statutes of this state regulating controlled substances or
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
18 The board may inquire into the circumstances surrounding the commission of the crime, in order
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
20 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
22 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
23 of this provision. The board may take action when the time for appeal has elapsed, or the
24 judgment of conviction has been affirmed on appeal or when an order granting probation is made
25 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
28 indictment.

1 ...

2 6. California Code of Regulations, title 16, section 1770, states:

3 "For the purpose of denial, suspension, or revocation of a personal or facility license
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
7 licensee or registrant to perform the functions authorized by his license or registration in a manner
8 consistent with the public health, safety, or welfare."

9 7. Section 118, subdivision (b), of the Code provides that the
10 suspension/expiration/surrender/cancellation of a license shall not deprive the
11 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
12 within which the license may be renewed, restored, reissued or reinstated.

13 8. Section 125.3 of the Code provides, in pertinent part, that the
14 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
15 have committed a violation or violations of the licensing act to pay a sum not to exceed the
16 reasonable costs of the investigation and enforcement of the case.

17 FIRST CAUSE FOR DISCIPLINE

18 (CRIMINAL CONVICTION)

19 9. Respondent is subject to disciplinary action under section 4301 (l) in that on or about
20 June 16, 2010, in a criminal proceeding entitled *People v. John H. Loeh*, in San Diego Superior
21 Court, Case Number SCN274706, Respondent was convicted by a plea of guilty to violating
22 Health and Safety Code section 11379(a)(Unlawfully transport and offer to transport controlled
23 substance), a felony, which is substantially related to the qualifications, functions or duties as a
24 registrant. The circumstances are as follows:

25 10. On or about March 25, 2010, Respondent did unlawfully transport and offer to
26 transport a controlled substance, to wit: psilocybin/psilocin mushrooms.

27 ///

28 ///

1 SECOND CAUSE FOR DISCIPLINE

2 (Controlled Substances)

3 11. Respondent is subject to disciplinary action under section 4301(j) by violating status
4 regulating controlled substances as described in paragraph 9 above:

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Board of Pharmacy issue a decision:

8 1. Revoking or suspending Original Pharmacy Technician Registration License Number
9 TCH 92661, issued to John Hans Loeh

10 2. Ordering JOHN HANS LOEH to pay the Board of Pharmacy the reasonable costs of
11 the investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3;

13 3. Taking such other and further action as deemed necessary and proper.

14 DATED: 1/27/11


VIRGINIA HEROLD

15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 Complainant

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